

EXPLANATORY MEMORANDUM TO
THE INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT NO. 2) REGULATIONS
2005 No. 2561

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.
2. **Description**
 - 2.1 These Regulations amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870) to (a) maintain the current annual subscription limits for the existing Individual Savings Account (ISA) components until 2010; (b) extend the "5% test," that identifies and limits collective investment scheme products that provide cash-like returns to the 'cash' component of an Individual Savings Account, to all direct investments in shares and securities; and (c) clarify the information and reporting requirements for providers of ISA products arising from removal of the separate insurance component.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 1 of the Commissioners for Revenue and Customs Act 2005 provided for the appointment of Commissioners for Her Majesty's Revenue and Customs and Excise to replace the Commissioners of Inland Revenue.
 - 4.2 Regulation 4 of the Individual Savings Account Regulations 1998 (S.I. 1998/1870) sets out the annual subscription limits for each ISA component.
 - 4.3 The Individual Savings Account (Amendment) Regulations 2003 (S.I. 2003/2748) amended the Individual Savings Account Regulations 1998 to introduce the "5% test" for all collective investment scheme products qualifying as investments eligible to be held in an ISA.
 - 4.4 The Individual Savings Account (Amendment No. 2) Regulations 2004 (S.I. 2004/2996) amended the Individual Savings Account Regulations 1998 to remove the separate ISA insurance component and bring insurance into the ISA stocks and shares component.
5. **Extent**
 - 5.1 This instrument applies to all of the United Kingdom.
6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The definition of the ‘Board’ in regulation 2 of the Individual Savings Account Regulations 1998 currently refers to the Commissioners of Inland Revenue: this needs updating to reflect the changes made by the Commissioners for Revenue and Customs Act 2005.
- 7.2 In March 2005, as part of the Budget announcements, the Chancellor stated that the existing annual subscription limits (of £7000 a year, with no more than £3000 subscribed to cash savings) would be retained until 6 April 2010. Under the existing regulations this annual subscription limits was to reduce from 7 April 2006 to £5000 of which no more than £1000 could be subscribed to a cash ISA. These amending regulations are required to extend the £7000 subscription limit, and confirm it will continue in place until 6 April 2010.
- 7.3 In November 2003 we introduced the ‘5% test’ in to the ISA Regulations to exclude certain collective investment scheme products, those manufactured to provide savers with a ‘guaranteed’ or cash-like’ return, from the ‘stocks and shares’ component of the ISA. Such schemes are excluded if they provide ‘guaranteed’ or ‘cash-like’ returns within the first 5 years of purchase, and will instead qualify for the cash ISA. This means they are subject to the lower annual subscriptions for that component.
- 7.4 Providers have now developed certain ‘guaranteed’ or ‘manufactured’ investment products based on direct investments in the shares, with the aim of avoiding the 5% test within the ISA regime.
- 7.5 To prevent the different ISA treatment, currently given to these very similar products, distorting the market and savers decision making these amending regulations will apply the same 5% test to direct investment in shares and securities as used for collective investment schemes. The test will apply to investments purchased from the date these regulations come into force.
- 7.6 In 2004 we removed the separate ISA insurance component but the regulations still require providers to tell the Revenue about the number and type of products savers subscribe to each tax year. These regulations update those reporting requirements to reflect the changes to the insurance component.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it imposes no new impacts on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is negligible.

9. Contact

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